

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1130 22nd Street South
Suite 2000
Birmingham, AL 35205,

Applicant,

v.

ALABAMA DEPT. OF YOUTH SERVICES
P.O. Box 546, 100 Industrial Rd.
Mount Meigs, AL 36057

Respondent.

CIVIL ACTION NO.

2:05mc 3256-T

APPLICATION FOR ORDER TO
SHOW CAUSE WHY A SUBPOENA
SHOULD NOT BE ENFORCED

1. This is an action for enforcement of a subpoena duces tecum, pursuant to Section 710 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-9 ("Title VII").

2. Jurisdiction is conferred upon the court by Section 706(f)(3), 42 U.S.C. § 2000e-5(f)(3), and by Section 11 of the National Labor Relations Act, 29 U.S.C. § 161, as amended, incorporated in Section 710 of Title VII, 42 U.S.C. § 2000e-9.

3. Applicant, the Equal Employment Opportunity Commission (the "Applicant"), is the federal agency charged with the administration, interpretation and enforcement of Title VII, including, inter alia, the investigation of charges of unlawful employment practices, and is authorized to bring this action pursuant to Section 710 of Title VII, 42 U.S.C. § 2000e-9.

4. Respondent is a youth services facility operated by the State of Alabama with its principal place of business located at 100 Industrial Road, Mount Meigs, Alabama.

5. On April 27, 2005, pursuant to its authority under 29 U.S.C. § 161, incorporated in Section 710 of Title VII, 42 U.S.C. § 2000e-9, Applicant issued and served upon Respondent a subpoena duces tecum, numbered BIDO-50035, requiring Respondent to produce information needed as part of Applicant's investigation of a charge of unlawful employment practices, Charge No. 130 2004 02580, which has been filed against Respondent.

6. Respondent has not filed a Petition for Revocation or Modification of the Subpoena.

7. Respondent has refused to comply with the Subpoena numbered BIDO 50035. Specifically, Respondent has not provided complete copies of Charging Party's and Sylvia Dyer's personnel and leave records. Additionally, the Respondent has refused to provide the names and gender of employees who participated in the donated leave program from January 1, 2004 to January 31, 2004, and the application for each participant, medical certificates and/or doctor statements supporting the request for donated leave along with the records verifying the amount of leave donated. Further, if the leave was denied the Respondent was asked to provide an explanation for the denial.

8. The accompanying Declaration of Beverly Hinton, Birmingham Acting Deputy District Office Director (Exhibit A to the EEOC's Memorandum in Support of Application for Order

to Show Cause, filed concurrently herewith), and the attachments thereto, provide the factual support for this Application. The Declaration and the attachments are incorporated by reference into this Application.

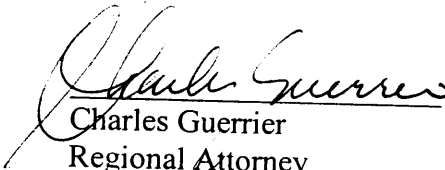
WHEREFORE, the Equal Employment Opportunity Commission prays:

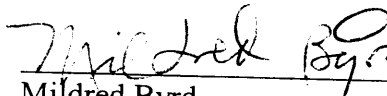
- (a) That the Court issue an Order directing Respondent to appear before this Court and to show cause, if there be any, why an Order should not issue directing Respondent to comply with the subpoena;
- (b) That, upon return of the Order to Show Cause, an Order issue directing Respondent to comply with the subpoena; and
- (c) That the Equal Employment Opportunity Commission be granted its costs and such further relief as may be necessary and appropriate.

Respectfully submitted,

James E. Lee
Deputy General Counsel

Gwendolyn Young Reams
Associate General Counsel


Charles Guerrier
Regional Attorney
AL Bar #


Mildred Byrd
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FOR THE MIDDLE DISTRICT OF ALABAMA

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Mount Meigs, AL 36057

Respondent.

CIVIL ACTION NO.

ORDER TO SHOW CAUSE

ORDER

The Equal Employment Opportunity Commission has filed an Application for an Order to Show Cause why a subpoenas duces tecum should not be enforced. The subpoena, numbered BIDO-50035, was served on Respondent pursuant to Section 710 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-9 on April 27, 2005, in the investigation of Charge No. 130 2004 02580. The Commission having duly served the subpoena upon Respondent, and Respondent having failed to comply within the period designated in the subpoena, it is hereby

ORDERED that Respondent appear on the ____ day of _____, at ____ in the Courtroom of Honorable _____, United States Courthouse, Birmingham, Alabama, and show cause why it should not be compelled to comply with the subpoena issued to it; it is further

ORDERED that Respondent be served with a copy of this Order to Show Cause, with the Application on which the Order is based and the Memorandum in Support, on or before the ____ day of _____, 2005; and it is further

ORDERED that Respondent must file and serve its Opposition to the Application no later than the ____ day of _____, 2005; and it is further

ORDERED that, the Equal Employment Opportunity Commission must file and serve any Reply to Respondent's Opposition no later than the ____ day of _____, 2005.

DATED: _____

UNITED STATES DISTRICT JUDGE